

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7202**

**BILL NUMBER: SB 364**

**NOTE PREPARED: Jan 4, 2011**

**BILL AMENDED:**

**SUBJECT:** Government Ethics.

**FIRST AUTHOR:** Sen. Miller

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill includes the Legislative Council and the Budget Committee in the definition of "legislative body" in the lobbyist regulation statute. It provides that a national organization established by an association of persons that includes members of state legislatures or by a political party and whose primary purpose is the education and support of legislative leadership, legislators, legislative staff, or related government employees is not considered a lobbyist.

The bill defines "reporting year" for purposes of lobbyist reporting of expenditures and gifts. It requires a lobbyist's report of purchases or gifts must be filed with the Lobby Registration Commission (ILRC) electronically. It requires the ILRC to forward a copy of such a report electronically to the affected legislator and the Secretary of the Senate or the Principal Clerk of the House of Representatives. It provides that such a report is confidential until ten days after the commission forwards the report. The bill provides that if such a report is corrected within the period of confidentiality, the report remains confidential. It provides that a lobbyist's activity report must report expenditures for a function or activity to which a legislative body is invited. It deletes language about the reporting of expenditures or gifts relating to the performance of a legislative person's official duties. The bill also provides that the prohibition of lobbyist payment of a legislative person's out of state travel expenses does not apply to an out of state function paid for by a lobbyist if all members of a legislative body or all legislative persons from Indiana attending the function are invited.

The bill provides that money received by a candidate or committee as a political contribution may not be used to send a communication to an electronic mail address: (1) with a domain name that contains "in.gov"; (2) of any agency in the legislative, executive, or judicial branch of state government; or (3) of any political subdivision. It redefines "communication" in the statute relating to communications by state officers to refer

to only audio and video communications intended for dissemination to the general public or a print communication in a newspaper. It provides that a communication made before the effective date of the amendment that would not have violated the statute under the amended definition of "communication" is considered not to have violated the statute as in effect before the amendment.

The bill authorizes the Inspector General to directly institute civil proceedings against persons who have failed to pay civil penalties imposed by the State Ethics Commission.

The bill requires the State Board of Accounts to provide to the Inspector General (in addition to the Attorney General) copies of certain reports concerning: (1) malfeasance, misfeasance, or nonfeasance in office by public officials or employees; (2) fraud or misconduct with respect to public contracts; or (3) unlawful expenditure or diversion of public money. It repeals or deletes provisions in the statutes governing the following quasi-governmental entities that give those entities the option of establishing a code of ethics for their employees or being under the jurisdiction of the State Ethics Commission (the State Ethics Commission statute provides that these entities are "agencies" for purposes of the Commission's jurisdiction): (1) Indiana Finance Authority; (2) Indiana Bond Bank; (3) Public Employees' Retirement Fund; (4) Indiana State Teachers' Retirement Fund; (5) Board for Depositories; (6) Indiana Housing and Community Development Authority; (7) Ports of Indiana; (8) Bureau of Motor Vehicles Commission; (9) Indiana Homeland Security Foundation; (10) Indiana Natural Resources Foundation; (11) Indiana White River State Park Development Commission; (12) State Fair Commission; (13) State Student Assistance Commission; (14) Indiana Grain Indemnity Corporation; and (15) Indiana Political Subdivision Risk Management Commission.

**Effective Date:** Upon passage; November 1, 2010 (retroactive); July 1, 2011.

**Explanation of State Expenditures:** *Electronic Filing of Lobbyist Reports:* Requiring lobbyists to file reports with the Indiana Lobby Registration Commission (ILRC) electronically would reduce the time currently necessary for data entry of these reports by staff. According to the ILRC, about 64% of registered lobbyists file reports electronically. Currently, there are approximately 1,700 registered lobbyists.

*Code of Ethics:* This bill repeals provisions that give certain quasi- governmental entities the option of establishing a code of ethics for their employees or being under the jurisdiction of the State Ethics Commission. According to the Office of the Inspector General, these entities are already observing the code of ethics established by the State Ethics Commission. Thus, this provision should have no fiscal impact on the State Ethics Commission or the Office of the Inspector General.

**Explanation of State Revenues:** *Civil Proceedings Instituted by the Inspector General:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Background Information** - In the event that a civil penalty imposed by the State Ethics Commission under IC 4-2-6-12(1) is not paid by the due date established by the State Ethics Commission, the Office of the Inspector General sends a demand letter to the respective respondent. (The State Ethics Commission

generally provides 30 to 90 days for a respondent to pay a civil penalty.) If the respondent ignores the demand letter, the Office of the Inspector General certifies the case to the Attorney General requesting civil action under IC 4-2-7-6(b).

The Attorney General may elect to file civil action against the respondent. The Office of the Inspector General may eventually file a civil action against the respondent under IC 4-2-7-6(c), but only one year after the case is certified to the Attorney General under IC 4-2-6-7(b). The Office of the Inspector General may also elect to institute forfeiture proceedings under IC 34-24-2 in the appropriate county.

Civil penalties imposed by the State Ethics Commission for FY 2007 to FY 2010 are provided below.

<b>Fiscal Year</b>	<b>Amount of Civil Penalties Imposed</b>	<b>Amount Collected</b>
2007	\$17,000	\$17,000
2008	\$9,051	\$3,357
2009	\$1,000	\$1,000
2010	\$4,700	\$2,200

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Civil Proceedings Instituted by the Inspector General:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** Indiana Lobby Registration Commission; State Ethics Commission; Inspector General.

**Local Agencies Affected:** Trial courts, city and town courts.

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